

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 10-11306-RWZ

THOMAS LYONS

v.

MARC DUBOIS, *et al.*

MEMORANDUM AND ORDER

June 14, 2011

ZOBEL, D.J.

Plaintiff Thomas Lyons, an inmate confined to the Old Colony Correctional Center in Bridgewater, Massachusetts, initiated this action, pro se, by filing a complaint against Marc Dubois, a correction officer, and Harold Clarke, the former Commissioner of Correction. In accordance with this court's Scheduling Order setting a deadline for motions to be filed (Docket # 20), defendants moved for judgment on the pleadings (Docket # 37) on April 1, 2011, asserting that the complaint is legally insufficient pursuant to Fed. R. Civ. P. 12(c).

This court's Scheduling Order also set May 6, 2011, as the deadline to file oppositions. Instead of filing an opposition to defendants' motion, on May 18, 2011, plaintiff filed a motion to enlarge time so that he might file a motion for summary judgment (Docket # 40). Summary judgment is premature since there is as yet no factual record. Plaintiff cannot show that no material facts are at issue and that he is entitled to judgment as a matter of law under Fed. R. Civ. P. 56(c)(2).

Plaintiff's motion for summary judgment is denied, and plaintiff is granted an enlargement of time to file his opposition to defendants' motion for judgment on the pleadings. He shall file this opposition within 21 days of the date of this Order; in default thereof, the complaint will be dismissed.

All other pending motions, Docket ## 25, 33, 34, 40, 41, 42, 43, and 44 are stayed pending decision on defendants' motion for judgment on the pleadings. Plaintiff's motion to refer the issue of default to a magistrate judge (Docket # 30) is denied.

June 14, 2011

DATE

/s/Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE